

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

AFFYMETRIX, INC.,

Plaintiff/Counter-Defendant,

v.

ILLUMINA, INC.,

Defendant/Counter-Plaintiff.

C.A. No. 04-901-JJF

**ILLUMINA'S PROPOSED VOIR DIRE**

Pursuant to D. Del. L.R. 47.1(a), Illumina, Inc. hereby submits the following proposed voir dire to jury panel.

Good morning, ladies and gentlemen. I am Judge Farnan, and I will be presiding over the trial for which a jury is about to be drawn in the case captioned *Affymetrix, Inc. v. Illumina, Inc.* Briefly stated, this is a patent action arising under the patent laws of the United States, and an action for unfair competition and intentional interference with contractual and prospective business relations.

The trial will last \_\_\_\_ days. I time my trials, so the attorneys have to complete their trial presentations within these limits. However, jury deliberations may require you to be present longer than \_\_\_\_ days. Our trial days will run approximately from 9:30 a.m. to 4:30 p.m.

I will now ask you certain questions, the purpose of which is to (1) enable the court to determine whether or not any prospective juror should be excused for cause; and (2) enable counsel for the parties to exercise their individual judgment with respect to preemptory challenges, that is, challenges for which no reason need be given by counsel. If any of you answer any question "yes," please stand up and, upon being recognized by the court, state your

juror number. When I have concluded asking all the questions, we will call you to the bench individually to speak with you about your affirmative response or responses.

[HAVE CLERK ADMINISTER THE OATH TO THE PANEL]

**Parties, Companies**

1. You have been given a list of companies.
  - (a) Are you personally acquainted with any officer, director, or employee of any of those companies?
  - (b) Do you or any member of your household now own, or have you or any such member ever owned, any stocks or bonds in any of those companies?
  - (c) Have you, any family member, or anyone close to you had any dealings with, or relied financially in any way on, any of these companies?
  - (d) Have you, any family member, or anyone close to you had any negative experiences with any products of any of those companies?
  - (e) Have you, any family member, or anyone close to you had any positive experiences with any products of any of those companies?

**Attorneys**

2. You have been given a list of the attorneys and law firms involved in this litigation. Are you related to, or personally acquainted with, any of those attorneys, or have you ever been represented by any of those attorneys or other associates or members of the listed law firms?

**Witnesses**

3. You have been given a list of the individuals who might appear as witnesses in this case. Are you related to, or personally acquainted with, any of those individuals?

**Technical Subject Areas**

4. You have been given a list of subject areas. Have you, or any family member, or anyone close to you ever been educated, employed, trained, or had any experience in any of the listed areas?

**Knowledge of the case**

5. Do you have any personal knowledge of this case, or have you read or heard it discussed, or have an opinion regarding it?

**Litigation experience**

6. Have you ever been a plaintiff, a defendant, or a witness in a civil lawsuit?  
7. Have you ever served as a juror in a civil lawsuit?

**Patent experience**

8. Do you have any knowledge about or experience with patents, including applying for a patent?  
9. Have you ever worked for a company that had patented products or processes?  
10. Have you ever been involved in the development of a new product or process?

11. Have you, any member of your immediate family, or anyone close to you ever had any dealings with the United States Patent and Trademark Office?

12. Have you, any member of your immediate family, or anyone close to you, or any person or company you have worked for ever been accused of patent infringement?

13. Have you, any member of your immediate family, or anyone close to you, or any person or company you have worked for ever been involved in licensing or dealing with patents?

### **Special disability or problem**

14. Do you have a special disability or problem that would make it difficult or impossible for you to serve as a member of the jury in this case?

15. Do you have difficulty speaking, reading, writing or understanding English?

16. Do you or any member of your immediate family, or anyone close to you, have any medical circumstances or illness that you believe might be affected in hearing the evidence in this case?

17. Have you or any member of your immediate family, or anyone close to you, developed or presently has a view on biotechnology, genetics and genetic research, and how that might affect our lives going forward or presently?

### **Background issues**

18. Have you or any member of your immediate family ever alleged that a company has engaged in unfair business practices?

19. Have you ever worked for a company that has been alleged to have engaged in, or has alleged that another company has engaged in, unfair business practices?

20. Have you, or a company that you have worked for, ever been alleged to have breached a contract, or ever alleged that another person or company has breached a contract?

21. Do you know of any other matter which you believe should be called to the Court's attention as having some bearing upon your qualifications or ability to sit as a juror, or which you think may prevent you from rendering a fair and impartial verdict based solely upon the evidence and my instructions as to the law?

**COMPANIES**

Illumina, Inc.  
Affymetrix, Inc.  
Parallel Biosciences, Inc.  
Perlegen Science, Inc.

**ATTORNEYS**

**KIRKLAND & ELLIS LLP**

Bob Krupka  
Mark Pals  
Marc Sernel  
Terry Tang  
Paul Collier  
Serena Gondek  
Russell Tonkovich

**MORRIS JAMES LLP**

Richard K. Herrmann  
Mary B. Matterer

**AFFYMETRIX LITIGATION ATTORNEYS**

Michael Malecek  
Andrea Gross  
Daniel Reed  
Stephen Holmes

**MORRIS, NICHOLS, ARSHT & TUNNELL LLP**

Jack B. Blumenfeld  
Maryellen Noreika  
Derek Fahnenstock

## **WITNESSES**

See Exh. Nos. \_\_\_ of the Pretrial Order, containing the list of Trial Witnesses from Plaintiff and Defendant.

## **SUBJECT AREAS**

Molecular biology  
DNA arrays  
Chemistry  
Biochemistry  
Nucleic acids  
Biology  
Statistics  
Mechanical Engineering  
Medicine  
Patents